

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF VALDEAN	)	APPEAL NO. 06-A-2026
SCHROEDER from the decision of the Board of	)	FINAL DECISION
Equalization of Boise County for tax year 2006.	)	AND ORDER

**VACANT LAND APPEAL**

THIS MATTER came on for hearing January 23, 2007, in Idaho City, before Hearing Officer Steve Wallace. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellant ValDean Schroeder appeared for himself. Assessor Brent Adamson, Appraiser Jill Staup appeared for Respondent Boise County. This appeal is taken from a decision of the Boise County Board of Equalization (BOE) modifying the protest of the valuation for taxing purposes of property described as Parcel No. RP04N04E286600A .

**The issue on appeal is the market value of vacant land.**

**The decision of the Boise County Board of Equalization is reversed.**

FINDINGS OF FACT

The assessed land total value is \$41,680. Appellant requests the land value be reduced to \$25,000, the original purchase price in 1999.

The subject property is 16.81 acres of bare land, described as Lot 2, Wilderness Ranch Segregation Subdivision, located in Boise County.

The property is located adjacent to Appellants' residence parcel. At the time of purchase, Appellant claimed with all the restrictions the land use was envisioned as grazing.

Appellant testified the County contends a residence can be constructed on the subject. Appellant maintains there is no way to get water to the property. The information was provided in a recorded Acknowledgment of Negative Easement, which Appellant referenced. The negative easement restricted Lot 2 owners from placing, constructing or using an injection well or sump on any part of the lot. The easement also restricted constructing, installing, using or

maintaining within 300 feet from the outer boundaries of Lot 1, anything which is a potential source of contamination from ground water at or below the surface of the ground, which would likely render the ground water on Lot 1 unsafe for human consumption without treatment. These sources include without limitation, cesspools, sewers, privies, septic tanks, drain fields, manure piles, garbage of any kind and barns.

Appellant maintained there was one spot for a septic system, however it is less than 200 feet to the Creek or 300 feet from the boundaries of Lot 1. Therefore, Appellant maintained the only use of the land is grazing.

Several of the comparable sales the County provided were located in Wilderness Ranch, having a separate water system and maintained roads. Appellant claimed these sales could not be compared to subject.

Appellant claimed the increase in assessed value from 2005 was not warranted considering the limitations of the property.

Respondent noted that even if a well could not go on subject, perhaps a storage shed or other dry building could be constructed. Appellant testified he applied for a special use permit to erect storage units, but was stopped by Wilderness Ranch, who claimed a vehicle oil leak or antifreeze leak could contaminate the ground water.

Respondent noted the recorded restrictions and recognized the 300 foot negative easement. Respondent maintained the sanitary restrictions only mean the property owner needed to apply for a septic system. If the application was actually denied, Respondent would consider that information.

Respondent Exhibit 2A was a photograph which reflects subject flat areas and hillside. The Assessor addressed both the area with the easement and the remaining area, which in

Respondent's opinion could be built on with a residence or other structure. The 300 foot easement amounted to an estimated 4.132 acres. This land was categorized as waste with no assessed value. The remaining 12.678 acres were classified an "average" land site, for a value of \$41,680. The average site class accounts for the irregular shape of the useable area. The remaining area is almost equal to Appellants' residence parcel, and could have a septic system or a well according to the County.

The County believed normal residential wells do not utilize injection or sump pumps, as specified in the recorded negative easement.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho is a market value state for property tax purposes.

Idaho Code § 63-201(10):

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Market value is particularly difficult to estimate on properties that are not typical. Because of the Negative Easement, we believe subject is not typical and the use is severely limited.

In determining the value of property the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed. Merris v. Ada County, 100 Idaho 59, 593 P.2d 394 (1979).

Respondent did consider the 300 foot zone, measured from the neighboring lot lines and in fact considered the area waste land, with no assessed value. However, the remainder of subject was considered an average buildable site. We find the lot is not average, because there are restrictions imposed on the whole lot. In addition to the 300 feet bordering the neighboring property. Subject land may not be improved by placing, constructing or using an injection well or sump on any part of subject. This restriction is in place to maintain the potability and quantity of the water being taken from the bordering Lot 1.

We are convinced by Appellant that an adjustment to the assessed value of subject is warranted. Therefore, the decision of the Boise County Board of Equalization is reversed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Boise County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed, lowering the assessed value to \$25,000.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 6<sup>th</sup> day of April, 2007.